IMPLEMENTATION IN PUBLIC POLICY

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It is a 'sine qua non' of policy analysis that policy making should be viewed as a process. In addition, policy formulation and implementation, embracing the ideals of forecasting, planning and evaluation, are now typically conceived as enmeshed in a social and organisational environment. Of particular significance are the 'political' preferences and counter-preferences of actors and groups determined to 'maximise' policy outcomes to their advantage. Analytical awareness of the distributional question of 'who gets what, when and how?' is essential to an evaluation of the policy process. This is salient at the implementation stage as the following reminder suggests 'the implementation of a policy may have been carefully planned in terms of appropriate organisation, procedures, management and influences on behaviour, but if it takes insufficient account of the realities of power (e.g. the ability of groups opposed to the policy to block the efforts of its supporters) then the policy is unlikely to succeed' (Hogwood and Gunn, 1984, p. 215). Implementation will typically occur in a multi-organisational network and involve political bargaining.

This chapter will draw on research conducted on the deregulation of U.S. telecommunications to point to the game-like nature of the implementation process. Telecommunications - central to the development of the so-called 'post-industrial' society - is manifestly a sector in flux. Old established telecommunications monopolies are now crumbling under the triple pressures of (a) technological change; (b) ideology - particularly the doctrines associated with the concept of economic liberalism; (c) large user pressure - telecommunications costs are of increasing significance in the search for comparative advantage (large corporate users are in consequence quick to promote competition among equipment and service providers). The global deregulation of telecommunications (many countries are now experimenting with regulatory relaxation), largely influenced by the policy model offered by the US, often
ambitions of the successive Carter, Ford and Reagan administrations (Derthick and Quirk, 1985). The resulting partial abandonment of regulation constituted a major paradigm shift. The acme of the deregulation process lay in Reagan's oft-repeated commitment to 'get government off the backs of the people', echoing Thoreau's celebrated dictum that 'that government is best which governs least'.

The Mechanics of Divestiture

The single most important event in the recent history of deregulation is that of the break up, or 'divestiture', of AT&T. Intended to tame this company leviathan (increasingly subject to charges of excessive profitability, bureaucracy and market unresponsiveness), divestiture can be traced to 1974 when the US Department of Justice filed an action against it, charging it with violations of the Sherman Act, the aim of which was the prevention of monopoly. AT&T was alleged to have used monopoly profits (rents) from its regulated business (telephones) to lever competitive advantage in 'enhanced' (and unregulated) business sectors.

The case was settled in January 1984 (sic) by means of a judicial 'consent decree' or 'modified final judgment' (MFJ). The main provisions of this were that the Department of Justice (DoJ) would vacate the case and allow AT&T to enter unregulated markets from which it had previously been excluded. In return for this concession, various impositions were to be levied on the company, the most important of which was a 'severed limb provision'. The kernel of this was the divestiture of the twenty-two local exchange companies of AT&T. These Bell Operating Companies (BOCs) would be consolidated into seven Regional Bell Operating Companies (RBOCs). These would, in turn, be subject to 'line of business' restrictions and prohibited from entering the competitive markets of long distance, equipment manufacture and data processing. For its part, AT&T would remain vertically integrated and consist of long distance, manufacturing (Western Electric) and R&D (Bell Labs). The company would vacate the local switched telephone service marketplace, but be allowed to enter all domestic and international competitive markets - with the exception of a seven year moratorium on entry to electronic publishing (Horwitz, 1989, p. 241). Divestiture was seen by its principal proponents (notably William Baxter, Assistant Attorney General) as a means of promoting competition by preventing the cross-subsidisation of competitive long distance services from monopoly local service (Faulhaber, 1987, p. 82).

The Implementation Game and the Political Reconstruction of Reality

In theory, deregulation and divestiture are inextricably intertwined. According to the first, open market entry would prove a better economic allocative method than 'collusion' between AT&T and the regulators. The second would ensure that AT&T would not be 'head and shoulders' above its competitors when released into the new competitive long distance marketplace (cross-subsidisation was still feared as a 'clear and present danger'). Additionally, the newly created RBOCs would be subject to a 'quarantine' approach. Controlling an important local exchange 'bottleneck' facility (through which AT&T and its long distance competitors would have to route to access local customers), the RBOCs would only be allowed to enter long distance, manufacturing and information services on clear demonstration that 'there is no substantial possibility' that they would use local monopoly power to impede competition in the markets they would seek to enter.
RBOCs could render invaluable service in improving the equipment and services 'information deficit' of the US. According to this logic, the restrictions produce a 'warehousing' effect, preventing the companies from bringing new products and services to the telecommunications marketplace. Ironically, the companies have attempted to defuse charges against them of uncompetitive conduct, by arguing that their exclusion from key aspects of the telecommunications marketplace has imposed efficiency losses (services foregone) and higher costs, on the macro US economy.

Significantly, the RBOCs have utilised their political contacts to the full and exploited the pluralistic nature of the American bureaucratic system. They have taken full advantage of the fact that the various agencies which comprise the bureaucratic telecommunications community at the federal level, are themselves contestants in the deregulation game. The companies have been quick to seek out those agencies overtly or covertly sympathetic to their cause.

At the forefront of bureaucratic support for the RBOCs, has been the National Telecommunications and Information Agency (NTIA) in the Department of Commerce. Concerned with the deteriorating trade position of the US in telecommunications and other high technology sectors, the NTIA has not only endorsed the RBOCs' case for freedom from the court imposed restrictions, it has orchestrated company activities in a bid to provide their cause with greater coherence and unity. The NTIA went so far as to petition the FCC for the latter to issue a declaratory ruling to the effect that jurisdiction over the RBOCs was its sole preserve under the Telecommunications Act of 1934. By this expedient, it was hoped to transfer jurisdiction from Judge Greene - characterised as operating under a restrictive anti-trust interpretation of the public interest. The FCC, operating under wider public interest standards, would, the NTIA hoped, liberate the RBOCs and allow them more readily to promote the international competitiveness of US telecommunications.

The most bizarre example of executive agency support for the RBOC cause, was that involved in the policy 'flip flop' of the Department of Justice (DoJ). Charged with the responsibility of overseeing and enforcing the MFJ, it executed an astonishing If--turn. From a position of strong support for the retention of the restrictions, officials latterly fashioned its antithesis - their complete abandonment. The trigger for 'this heresy' was the 'triennial report' of a consultant, Peter Huber (Huber, 1987) into the need (or otherwise) for continuation of the restrictions. Drawing the conclusion that the report has clearly demonstrated that technological developments were rapidly dispersing electronic intelligence in the telecommunications network in such a manner 'as to erode the local monopoly power of the RBOCs', the DoJ argued for the abandonment of all three restrictions - manufacturing, information services, and long distance. Essentially, the DoJ was arguing, like the NTIA, that Judge Greene should vacate the supervisory role allotted to him under the MFJ. He would thus relinquish power in favour of the FCC. Ironically, castigating the FCC during the AT&T anti-trust proceedings of the seventies and early eighties for its inability to control anticompetitive activities, the DoJ now suggested, that it was fully equipped to prevent RBOC monopoly abuse. The case of the DoJ serves to illustrate the extent to which the RBOCs were prepared to engage in 'micro-politics' to gain leverage in their fight. Behind the scenes pressure was put on the Attorney General Edward Meese. He was prevailed upon by the former Secretary of the Interior, William P Clark, then a director of one of the RBOCs (Pacific Telesis). Meese, who held stock in AT&T and several RBOCs, was persuaded to apply pressure within the DoJ to remove its 'theoretical, inflexible and burdensome approach to limiting the Bell companies' development plans. For this he would later be characterised as operating on the margins of the law and using his public office to further the interests of corporations in which he was a stockholder (Report of Independent Counsel, 1988).
fastest growing adjuncts of contemporary telecommunications services. While restricting them entering the field of information 'content', he has encouraged them to construct 'gateway' facilities for the transmission of information by other service providers. This he justified on the grounds that it 'will bring (the US) closer to the enjoyment of the full benefits of the information age'.

It is not only at the federal level, but also in the states that the RBOCs have sought regulatory relief. Examination of state developments reveals a similar picture of 'fast out of the starting gate' aggression and the development of rancorous relationships with competitors and the regulatory authorities. Charged with regulatory oversight of intra-state utility behaviour, state regulatory commissions have sometimes found themselves in a beleaguered situation in the face of post divestiture RBOC activity. On this, the case of the RBOC US West is extremely revealing. With the largest geographical coverage of all the RBOCs, US West has a territory covering fourteen states in the mid-west, Rocky Mountain and desert states. Espousing a frontier rhetoric and image, the company arguably has led the drive for intra-state regulatory relief. To this end, it has used influence on state legislators, governors and members of regulatory commissions. In the process, it has scored some notable successes. In Nebraska, for example, it has achieved radical regulatory relief across a wide range of services. Such activities have occasionally brought costs, particularly in the form of the development of rancorous conflict. The company has been perceived by the state regulatory community as engaged in regulatory relief leveraging by threatening, for example, to refuse to locate job creating facilities in states retaining strong forms of regulation.

The US West example again reveals company naivety. Stung by its assaults, the regulatory commissioners in its fourteen state bailiwick have latterly formed themselves into a 'regional oversight committee' (ROC) to better enable them to pool information on company activity, and prevent individual states from being picked off by US West. Recognition of the potentially counter-productive results of its over-enthusiastic pursuit of state deregulation, has effectively tempered company aggressiveness.

However, if company activity has matured somewhat as a result of such bruising by experience, it would be fanciful to imagine that the RBOCs have lost their enthusiasm and appetite for intra-state relief. The many analyses appearing on state telecommunications developments reveal a growing trend toward deregulation. States as diverse in socio-geographical terms as Washington, Vermont, Florida, Illinois and Texas, are among the ranks of those engaged in regulatory experimentation in the telecommunications field. Even those characterised as strong regulatory retentionists, such as California and New York, have migrated to the deregulatory camp. The RBOCs and their allies in the business community - while frequently bemoaning the pace at which such developments are occurring - must surely relish the successes they have undoubtedly had in the past five years. As at the federal level, it seems extremely unlikely that company pressures for further regulatory relief will diminish. As the critics of deregulation and divestiture have been wont to indicate, once concessions were granted to the companies, they would demand ever more.

Causal Chains, Sub-optimisation and the Chimera of Rationality

The above brief foray into one (albeit important) aspect of US telecommunications developments since 1984, reveals something of the complexity and incompleteness of a process designed to deliver a clear solution to the perceived negative consequences of the earlier regulatory paradigm - monopoly, slowness in technological innovation, 'gold plating' of equipment etc.
RBOCs have revealed changing procurement patterns (for example, now sourcing a high percentage of their large switches (exchanges) from the Canadian firm Northern Telecom). The spectre of the fully unleashed RBOCs sucking in yet further foreign equipment supplies, has ironically tempered the enthusiasm for removal of the line of business restrictions by one of their most ardent institutional supporters, the NTIA. Finally, concern has surfaced over the defence implications of divestiture (Drucker, 1986). Such worries have centred on the fragmentation entailed in the divestiture of AT&T, highlighting the difficulties it may bring in train for the maintenance of the integrity of a secure and reliable defence communications system.

The key question illustrated by the battles of the MFJ, is that of the rationality of a pluralistic telecommunications decision-making process which fragments power and appears to militate against the generation of a coherent industrial policy. Against the arguments of some European writers (Hills, 1986; Tunstall, 1986) that America is determinedly attempting to export the deregulation revolution to force open foreign markets for its indigenous companies, can be presented a picture of 'multi organisational sub-optimisation' and lack of focus and direction (Hood, 1976). It is hard to disagree with the verdict that telecommunications policy making is fragmented and continuously subject to 'jurisdictional turf fights' (Olsen, 1988). While pluralism may positively (vide Lindblom) make for 'optimal' policy outcomes, the line of business debates documented above, raise the spectre of a divided America in a hostile world. Bearing the risks of a policy of 'deregulation in one country', the United States faces the challenge of competition from countries like Japan, which view competition not as a policy end, but as a policy means and which provide incentives for jurisdictional 'concertation' between key agencies (Harris, 1988).

Since divestiture, the American telecommunications policy process has revealed predictable tendencies. Some might choose to characterise US telecommunications as a policy arena symptomatic of chronic pathology (Hogwood and Peters, 1985). The RBOC debate shows familiar signs of an adversarial policy approach tending to incohesiveness. The uniquely American characteristic of the injection of judicial activism compounds this situation.

In recent months, there are certainly increasing signs of a crystallisation of concern about the downside of deregulation. A clear impeller of such anxiety, is the rapidly deteriorating trade balance in telecommunications equipment since the beginning of the 1980s as a direct consequence of unilateral US deregulatory disarmament. The spectre of the imminent construction of 'fortress Europe' in 1992 has added to such fears. The passage into law of the Omnibus Trade Bill in 1988 was a self-conscious attempt of the government to aggressively address the question of the establishment of advantageous foreign market opportunities for US companies in the field of telecommunications products and services. It mandated the President to negotiate with priority countries in order to establish bi-lateral or multi-lateral trading agreements.

Like all external threats, the issue of the telecommunications trade imbalance has had the effect of concentrating minds. An important inter-agency 'concertationist' initiative has developed in the form of the 'breakfast club' - an informal gathering of the heads of the federal agencies most deeply involved with telecommunications policy formulation and, in particular, aspects of telecommunications trade policy. Such agencies include the United States Trade Representative (USTR), the FCC, the International Trade Administration (ITA) and NTIA - two key sub-agencies within Commerce - and the State Department.

Of parallel significance is the activity of the US Chamber of Commerce, which has established a Telecommunications Task Force to improve communications links between 'industry' and 'government' and to pool intelligence about foreign market opportunities for US companies. Interestingly, it includes among its membership both RBOCs and members of the anti-RBOC alliance.
References

Public Utilities Fortnightly, (1987), Less than half a loaf: Judge Greene refuses to unleash the RBOCs, Oct. 15.